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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,935	12/21/2001	Gerard S. Moloney	A-68359-1/RMA	2631

7590 06/03/2005

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EXAMINER
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ELEY, TIMOTHY V

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/027,935	<b>Applicant(s)</b> MALONEY ET AL.	
	<b>Examiner</b> Timothy V Eley	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 9-33 is/are pending in the application.  
     4a) Of the above claim(s) 17-22 and 26-31 is/are withdrawn from consideration.  
 5) ☒ Claim(s) 1 and 9-16 is/are allowed.  
 6) ☒ Claim(s) 23-25 is/are rejected.  
 7) ☒ Claim(s) 32 and 33 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

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DETAILED ACTION

*Election/Restrictions*

1. Applicant's election with traverse of claims 1,9-16,23-25,32, and 33 in the reply filed on March 7, 2005 is acknowledged. The traversal is on the ground(s) that the method claims as recited require an apparatus having all the elements of the apparatus claims. This is not found persuasive because as stated in the previous office action, the apparatus can be used in a different method, which does not require adjusting first and second pressurized fluids to achieve a "predetermined" polishing profile over a front side surface of a workpiece. I.e., it may be possible to perform a method wherein only the first or second pressurized fluids are adjusted..

The requirement is still deemed proper and is therefore made FINAL.

*Claim Rejections - 35 USC § 102*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Zuniga et al(2002/0086624).

- Zungia et al discloses in figure 4B, a planarization machine having an "open" diaphragm(118) which mounts a substrate and which is supported by a "floating" retaining ring(230).

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***Response to Arguments***

4. Applicant's arguments filed March 7, 2005 have been fully considered but they are not persuasive.

- Applicant argues that the flexible membrane 118 in Zuniga is connected to the support structure 114, and is not supported by the retaining ring 110.
  - o Applicant's broad recitation of "supported by" is taught by Zuniga et al, since the member 116 is attached to the retaining ring and the flexible membrane 118. Also, when the retaining ring is in contact with a polishing pad, the majority of the polishing head is supported on the polishing pad by the retaining ring.
- Applicant argues that the diaphragm in Zuniga is not open.
  - o As seen in figure 4B, the diaphragm 118 is "open" on the side of the support structure 114.

***Allowable Subject Matter***

5. Claims 1, and 9-16 are allowed.

6. Claims 32 and 33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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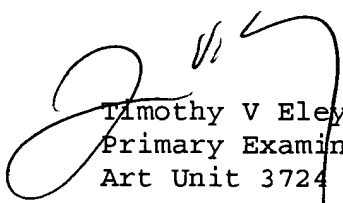
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy V Eley whose telephone number is 571-272-4506. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Timothy V Eley  
Primary Examiner  
Art Unit 3724

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